

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ABBAS ELCHEIKHALI,	)	CASE NO. 4:10 CV 2333
	)	
Petitioner,	)	JUDGE SARA LIOI
	)	
v.	)	MAGISTRATE JUDGE
	)	WILLIAM H. BAUGHMAN, JR.
ERIC HOLDER, <i>et al.</i> ,	)	
	)	
Respondents.	)	<b><u>ORDER</u></b>

The case is before me on referral<sup>1</sup> for a report and recommendation on the motion<sup>2</sup> of the petitioner, Abbas Elcheikhali, for a stay of deportation.

The time for the government's answer to the petition has yet to run. I have previously ordered a response to the motion to stay by November 19, 2010.<sup>3</sup>

The petitioner filed on November 16, 2010, an "emergency pleading" asking for an expedited ruling on the motion to stay because his deportation is now scheduled for November 17, 2010.<sup>4</sup>

Construing the emergency pleading as a motion for an expedited ruling, such motion is hereby denied. My preliminary review of this matter discloses that the motion to stay raises issues of subject matter jurisdiction and exhaustion of administrative remedies. The

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<sup>1</sup> ECF # 5.

<sup>2</sup> ECF # 3. The motion makes no reference to a deportation date.

<sup>3</sup> Non-document order of November 10, 2010.

<sup>4</sup> ECF # 6.

Court cannot properly rule on the motion to stay deportation without a response from the government. The November 19, 2010, deadline cannot be accelerated on the short notice of deportation given by the petitioner's "emergency pleading."

Furthermore, the motion to stay is before me on referral for report and recommendation. My report and recommendation may be objected to within 14 days of its entry.<sup>5</sup> A final ruling by the District Judge on the motion to stay will only be made after this time period for objections has run, and the District Judge reviews any objections made. My report and recommendation, even if entered today, would have no effect on the deportation.

IT IS SO ORDERED.

Dated: November 17, 2010

s/ William H. Baughman, Jr.  
United States Magistrate Judge

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<sup>5</sup> 28 U.S.C. § 636(b)(1).